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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,410	03/23/2004	Wendy Zellen	1358-11	2308
58388	7590	07/23/2007	EXAMINER	
GOWAN INTELLECTUAL PROPERTY			TRAN LIEN, THUY	
1075 NORTH SERVICE ROAD WEST			ART UNIT	PAPER NUMBER
SUITE 203			1761	
OAKVILLE, ON L6M-2G2			MAIL DATE	
CANADA			07/23/2007	
			DELIVERY MODE	
			PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/806,410	ZELLEN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Lien T. Tran	1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 04 July 2007.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,2,6-9,11,12,14 and 17-19 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,2, 6-9, 11-12, 14, 17-19 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____.

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Claims 1,2, 6-9,11-12,14,17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kincs et al in view of Peleg et al and the book " Professional Baking".

Kincs et al disclose a pie crust comprising flour, water and frozen oil system. The oil can be soybean oil, cottonseed oil, peanut oil, corn oil and combinations thereof. Kincs et al do not disclose that the oil is winterized; thus, the oil is non-winterized ( see page 2 lines 28-47, col. 4 lines 13-16, col. 5 lines 1-10). Kincs et al also disclose a process to make pelletized shortening. The process comprises the steps of melting vegetable oil such as it is liquefied and chilling the oil to solidify it to form pellets. The vegetable oil will typically be primarily soybean oil, cottonseed oil, peanut oil, corn oil and combinations thereof. The chilling takes place at temperature range of about 12.8-35 degree C, depending upon the vegetable oil being processed. The pellets are used in making dough products such as pie crusts, pizza crust and the like. The dough products comprise ingredients such as flour, sweeteners, egg, milk and water. ( see col. 1 lines 30-44, col. 2 lines 28-47, lines 62-65, col. 4 lines 13-16, col. 5 lines 1-8)

While Kincs et al disclose using the solidified oil in pie crust, they do not disclose the specific formulation of the crust as claimed. Also, they do not disclose the processing temperature and the temperature of water and flour and the steps of cooling water, the temperature of the solidified fat and mixing the cooled water with the flour and frozen oil/fat. Kincs et al are also silent about the crust having zero zero hydrogenated fat constituent.

Peleg et al disclose a pie crust and method of making it. They disclose the components of the pie crust and the composition as shown in column 2. They also

teach to use water chilled to a temperature range of 1.6-7.1 degree C to form the dough. They teach conventional dough forming procedure for forming the crust including the step of chilling the flour components to a temperature of less than about 9.9 degree C. ( col. 2, col. 4 lines 1-10)

The textbook teaches the pie dough should be kept cool about 15 degree C during mixing and make-up to keep the consistency of the fat and for gluten development.

Kincs et al teach to make pie crust; thus, it would have been obvious to one skilled in the art to use any known dough formulation to make the crust. Such formulation is exemplified in the Peleg et al teaching. It would also have been obvious to vary the formulation depending on the type of crust wanted and the flavor, texture desired. Such variation would have been within the skill of one in the art. Kincs et al disclose on col. 2 lines 15-17, vegetable oil, typically partially hydrogenated vegetable oil". This disclosure clearly suggests that while the oil used is typically partially hydrogenated oil, it does not have to be hydrogenated oil. Knowing the unhealthy aspect of hydrogenated oil, it would have been obvious to one skilled in the art to use natural oil or non-hydrogenated oil when desiring a healthier product. This variation is fully suggested by Kincs and would have been readily apparent to one skilled in the art. Kincs et al do not limit the oil to only hydrogenated oil; this is clearly seen in the claims which only recite vegetable oil. While the oil in Kincs et al is not frozen to the same temperature as claimed, Kincs et al teach the temperature can vary depending upon the vegetable oil being processed. Thus, it would have been obvious to use lower temperature when the oil being processed requires lower temperature to solidify. The temperature is a result-

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effective variable which can be determined by one skilled in the art. It would also have been obvious to chill the flour and water and to carry out the mixing at the cooled temperature for the reason taught by Peleg et al and the baking textbook. Such processing steps are conventional as shown by the prior art. The amount of up to 50% comprising shaved, flaked or ground ice include 0 amount of such component. Furthermore, it is notoriously well known in the art to use ice to make chilled water and both Peleg and the textbook teach to use chilled water in the making of pie crust.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien T. Tran whose telephone number is 571-272-1408. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hendricks Keith can be reached on 571-272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*Lien Tran*  
LIEN TRAN  
PRIMARY EXAMINER

*Group 1700*  
7/17/07